

COMMISSIONERS APPROVAL

GRANDSTAFF *CG*

ROKOSCH

THOMPSON *AK*

CHILCOTT *g*

DRISCOLL *W*

PLETTENBERG (Clerk & Recorder)

Members Present.....Commissioner Carlotta
Grandstaff, Commissioner Jim Rokosch, Commissioner Greg Chilcott and Commissioner
Kathleen Driscoll

Date.....May 16, 2008

Minutes.....Glenda Wiles

► Commissioner Alan Thompson was in Libby attending a CDC/Mental Health meeting during the day.

► The Board met with Engineer Shane Stack of the Montana Department of Transportation for a project update.

- In regard to the Highway 93 construction (just north of Hamilton and at the Stevensville Wye) they hope to be done by October. The chip seal will not be done until the spring/summer of 2009.
- In regard to St. Mary's road north and south; Indian Prairie Loop and Bell Crossing north and south; these projects were combined and can be let for bid separately or together. They are working on obtaining a 404 permit (wetlands) that might hold the project up. Although these projects were not due to go until 2012, the state has 'left over' monies in this budget and they are moving forward. Shane stated the bids probably won't be ready by fall 2008, but possibly by spring 2009.
- Victor Urban north; Bell Crossing north and south will be combined projects
- Victor Urban; which is the section through the un-incorporated town area which includes Clark Street
- Hamilton north of Woodside; currently under construction
- Fairgrounds Road, Dutch Hill Road and Pleasant View Road are safety projects due to the trend of vehicle crashes which compete for a reasonable fix within the whole state. The safety fix can be anything from signage to road reconstruction
- Hamilton south to Conner; will have a pavement overlay this summer for pavement preservation

- Florence east; reconstruction is scheduled for 2012. A single lane round-a-bout will be placed during the summer of 2012 (Shane noted these are tentative dates). Shane stated since this project is so far out, they will take a hard look at the traffic increase prior to the final engineering design. The bridge over the Bitterroot River will be reconstructed (still being a two lane bridge with a bike lane and pedestrian underpass). Discussion on this project included the residential growth and traffic studies necessary to help the final engineering for this project, the Traffic Corridor Study from the Missoula County Line south through Ravalli County.
- North of Stevensville; widen the curves to be let 2012
- South of Stevensville; delineators
- Pine Hollow Road; south of Stevensville with new rail road crossings
- Black and Bass Lane; reconstruction of vertical curve and left hand turn lanes in 2012
- Fish Hatchery Road off of Skalkaho Creek; Bridge replacement in 2009
- Skalkaho Road; improvement of guard rail, signage and pavement marker
- Westfork Road; guard rail installation

The Board thanked Shane for his time.

► In other business the Board held a budget hearing with Public Health and Ravalli County Economic Development Authority.

► The Board met to discuss and make a decision about the Willow Creek project in Corvallis for CTEP monies (pathway and bridges). Present at this meeting was Planning Director Karen Hughes. Karen presented a Request for Commission Action in order to review the ranking of the three engineering firms submitting their services for this CTEP project. Those three proposals were: Territorial Landworks, PCI and WGM Engineering. Karen stated in her review Territorial Landworks comes out on top for engineering services, due to staffing, recent services including project management, reference and experience. The next engineering firm in ranking was WGM due to recent experiences and references. The next firm in ranking was PCI. Karen noted their summary on the project scope was briefness and they did not outline the process as well as Territorial Landworks. Plus Karen stated the local engineer is retired and she has not worked with the other engineers as much as the others who submitted.

Commissioner Chilcott made a motion to enter into negotiations with Territorial Landworks for this CTEP project. Commissioner Driscoll seconded the motion and all voted "aye".

► The Board met with the Right to Farm and Ranch Committee in order to discuss their position on zoning. Present were Committee Members Dan Huls, Tom Dobberstein, Larry Trexler, Jay Meyer and Mike Pflieger. Numerous guests were present.

Dan Huls stated they have developed a proposal for countywide zoning. This phase of their work has dealt with value extraction. (See the attachment for issues and problems).

Dan stated they based much of their extract value on the irrigation practices. Zoning must recognize the existence of these practices. There must be incentives to the land owners to allow for smaller lots (i.e., boundary line relocation) in order to protect the agricultural land. Dan also stated there should be an expedited review for conservation development. Commissioner Chilcott stated currently under the Subdivisions and Platting Act, the Commissioners do not have the authority to make that expedited review. They would have to go to the legislators in order to obtain that review. Otherwise, if it is not done this year the Commissioners would need to change the Ravalli County Subdivision Regulations in order to expedite some of the review but not a full administrative review unless state law changes.

Dan stated one thing that is important is to have a pre-application process before a lot of money is spent in order to obtain the conservation development. This means staff participation needs to happen early in the process.

In regard to the open lands program, they feel the open lands program is in jeopardy if the zoning does not allow enough density.

Dan stated their committee feels incentives (i.e., extraction) for landowners are important. He stated a cookie cutter approach to lot sizes might not be appropriate; i.e., in some instances a one acre will work, but some lots will need to be 3 or 4 acres to accommodate the irrigation practices. When new technology occurs and the State changes the law in regard to the one acre minimum lot size for well and septic; they can then review the extraction issues.

Dan stated they would like to see the purchase of development rights as transfer of development rights is harder to achieve. He stated they are looking for a balance of the development. In regard to lot size, they would like some flexibility. The committee feels all irrigated farmland lying outside of the existing incorporated and unincorporated town sites should be zoned as one residential unit for each 10 acres. Boundary line modifications should be allowed to shrink those lot sizes in order to accommodate State law. Also Dan noted they feel non-irrigated and floodplain land should be one unit for each 40 acres.

Dan stated the committee feels the county should develop an expedited subdivision process for conservation developments and should use the Board of Adjustment to provide landowners with the possibility of greater flexibility in developing their property. Again this is where the staff needs to participate early in the process.

In regard to the sale of development rights, Dan stated the landowners may elect to sell all or a portion of his development rights to any private or public organization created to purchase development rights for the purpose of removing them from the market. Once they are sold, a development right is permanently retired and eliminated from the marketplace.

In regard to conservation easement takedown, and in the case of a parcel being appraised for the Open Lands Program, the underlying zoning should be 1 unit for 10 acres, plus bonus development lots for all irrigated farmland. Commissioner Chilcott asked what consideration there is for the dry land parcels, particularly those that are the larger parcels of land. Dan stated the logical basis to start is the 10 acre tracts, and a way to mitigate the loss of those parcels.

In regard to taxation, Dan stated there has been concern about the taxation due to the zoning. The county should take care not to tax land that has not been developed into residential. Commissioner Chilcott stated he visited with DOR staff member Candi Jerke; who stated that change does not take place until the change of land use occurs. She was speaking as a member of the CPC in Florence, but that is at least someone who understands the process of taxation.

Dan also stated any zoning regulation should recognize and facilitate the use of agricultural land for any purposes that will add to the economic viability of farming and ranching so long as these uses are consistent with existing laws and directly related to the agricultural production or production and sale of value added agricultural products. Commissioner Grandstaff stated she agrees with this.

In regard to bonus lots for large tracts, particularly those exceeding 40 acres, a bonus lot should be allowed for each additional full 40 acres contained within the parcel, including the first 40 acre tract. For example, a 120 acre tract would be entitled to a total of 6 development rights.

Dan stated the Draft B Zoning Regulations are unacceptable to the Right to Farm and Ranch Board. Commissioner Rokosch stated some of these sections need to be pared down, and they need to distinguish urban from rural. He stated they do not need to create permits for something that has already been in use.

Commissioner Grandstaff opened the meeting for public comment.

Ben Hillicoss offered to work with the committee; noting his family have been farmers for many years. He felt they need to be careful not to create too many TDR's as their value will decrease. He does not see any differences between those who are actual farmers and those who simply own a large amount of land and just have a hay crop contracted out. Ben stated there are some 'holes' in the working of this document presented here today. In regard to development rights, they should be able to buy them and hold them for many years. He is concerned about the long range policies of the Commissioners as the next Board of Commissioners may have a different perspective.

Dan agreed with the TDR issue in regard to flooding the market with those. In regard to purchasing development rights; that would be from an entity that would retire that right (it would go away). Dan stated when they delved into the transferable development rights they got concerned pretty quickly about flooding the market with these rights. This

needs to be thought out and done correctly so it is workable, otherwise it is a waste of time.

Michael Howell asked about the floodplain issues. Dan stated they are not supporting any changes to the floodplain, rather that development can occur on certain pieces of that parcel.

Jani Summers asked if the expedited or administrative reviews would not incur the responsibilities of pro rata share, monies towards open lands, schools etc.

JR Iman addressed the monies created for open lands, development rights and deed restrictions that permanently attach to the land. Mike Pflieger stated the question is whether the deed restriction or conservation rights means more.

Ben asked what happens to properties that already have conservation rights on them, is any building possible. Mike stated no. Ben asked about the Plum Creek Properties and State land. There are thousands of acres of land that belong to the state.

Roger DeHaan stated they need to address the receiving area to keep the rights valuable. They need to purchase their rights, not hang on to them.

Jay stated he is appealing to the Commissioners not to allow people to complain about the nuisance of agricultural operations. Mike also stated many farmers have other businesses and they should not be penalized for those home based businesses. He stated there should not be any restrictions, rather the Commissioners should 'cheerlead' this, so the farmers can stay on their properties and continue to ranch i.e., accessory uses. Commissioner Rokosch stated these accessory uses would not be done away with; his only concern is taking the small business into a full fledged commercial business.

Commissioner Chilcott asked how they would address timber. Dan stated that would be considered dry land and timber is considered agricultural land.

Dan stated the citizens have an expectation. The agricultural users want to do the right thing and we need to continue to allow that agricultural land to continue. **Use incentives to facilitate the outcomes we all want. Dan further stated the Ravalli County voters wanted to limit the future residential density, not evolve into micromanaging the everyday lives of the Ravalli County Citizens.** The Board concurred.

Mike asked if the Commissioners can take this information to Clarion in order to include these concerns and options that can be worked on. The Commissioners indicated this would be taken to Clarion for inclusion in the process.

► In other business the Board met to discuss and make a decision on the EDA Grant in the amount of \$1.6 million with a match of \$1.6 million which can include the land. This project is for the 10,000 sq. foot entrepreneurship center on Old Corvallis Road and the lift station. The yearly payment would be \$13,000. Julie Foster presented a project

description, project sector investment, the financial assumptions, and budget information and construction programs. Julie stated they have calculated out enough net income to make the payments. They will also apply for other grants which will bring down the local investment.

City Planner Dennis Stranger and Mayor Jessica Randazzo stated they were asked to co-sign this loan. Jessica stated Julie approached them to co-sign but after looking at the financial information for an analysis they found the city is not big enough to offer this type of assistance for this project. The statutes do not allow them to borrow from the general fund in that percentage. They believe in the project but voted no 3-2. Jessica stated they have the ability to offer some support; such as co-signing the application, supporting the development and annexation.

Julie stated the application was to be in by May 2nd, which she submitted, it was just not completed. They extended to May 12th; which can go to May 21th according to their agenda. If the \$181,000 went away it would be impossible to complete this project.

Commissioner Rokosch asked if Klarryse was here today. It was noted she was not available. Commissioner Chilcott stated the Commissioners can co-sign this loan; but the question is the county's ability to fund this loan if it defaulted. Commissioner Chilcott agreed economic development is important because of the declining revenues and not able to keep up with the tax base. Commissioner Rokosch stated they need to look at the risk level. Julie stated Dennis will assist in setting up a rebate agreement, and while the loan can go for 20-years, they hope to make the first year payment with that rebate. Commissioner Chilcott recognizes Hamilton has financial issues as does the County; but this is a huge benefit to the City of Hamilton with no risk to them which they will get a larger proportional benefit than the county obtains. He stated the city should share in this risk proportionally. In the earlier conversations, the rebate was not as beneficial to what the estimations are.

Jessica stated when they looked at co-signing the loan, they all agreed other grants would need to be obtained, and the loan needs to be paid off with those grants as soon as they are obtained.

Commissioner Chilcott stated he wants some assurance that the City will step up to show a commensurate risk.

Dennis stated he recognizes their need to assist financially. They have the need to upgrade their treatment facility for the users. Jessica stated this is a win-win for the community. She stated they discussed the proportionate share, but they never agreed to that.

Glenda stated this decision should not be made in a vacuum. There is not enough information on this issue being presented today. She stated this is a decision that all five Commissioners should weigh in on particularly since the county is facing huge economic/budget issues. She noted the City receives the property through annexation

and the county assumes all the risk in this process. Glenda also stated the City is advising the Commissioners they are willing to support this but they have come here today with nothing in writing showing their support. Commissioner Grandstaff agreed and wanted to wait for Klarryse. Commissioner Driscoll stated she feels comfortable because she has been involved in this. Commissioner Chilcott stated if this defaults, the county will keep the \$40,000.00 they normally give the EDA because the EDA will 'go away'. Jessica stated their real plea is that the County looks at this project for its merit and they not get involved in a 'ping pong game' between the city and county. She stated the City only has a \$7 million dollar budget and this is too much money for them to tie themselves into. She stated they gave this project their 'best look and it is not what we can or can not do'.

Commissioner Roksoch stated to have this fall apart on the potential of a \$13,000 payment is not a good thing. Commissioner Grandstaff asked Dennis if he has a rebate schedule. Dennis replied no, but it should be proportional. Commissioner Grandstaff stated this discussion is being brought to them at the 11th hour to sign off on and she is not comfortable with that.

**Commissioner Chilcott made a motion to table until 11:30 on Monday.
Commissioner Driscoll seconded the motion and all voted "aye".**

► The Board held a budget hearing with the Sheriff's Office.

► In other business the Board held a recount of the ballots for the Florence Park District Levy due to the appearance of a tie vote. Present were Clerk & Recorder Regina Plettenberg and Deputy Clerk & Recorder Tina Miller.

Zoning Regulations Draft B

May 9, 2008

The Ravalli County Right to Farm and Ranch Board takes this means to inform the Ravalli County Commissioners and the public in general that it cannot support the Draft B Zoning Regulations as they are now written. What began in the minds of a majority of Ravalli County voters in November 2006 as a limit to future residential density has evolved into a document of micromanagement of the everyday lives of Ravalli County citizens.

Inasmuch as it is very difficult to retain agriculture land and to remain even somewhat financially viable, this board wishes to amend the Draft B regulations with the inclusion of proposals which seek to ameliorate the impacts of county wide zoning. (Note to RTFR members - at this point someone may wish to enlarge on our proposal)

Beyond the problems created for agriculture are those which adversely effect all residents. Examples include, but are not limited to:

- 1 - Landscaping - native plants only, which would eliminate most of the current vegetation
- 2 - Screening and fencing - not only are these requirements extreme in this rural area, but would be prohibitively expensive in an economically depressed setting
- 3 - Shielded lighting - speaks for itself in a locale where houses are fairly dispersed
- 4 - Bed and Breakfasts - Let the state license these as it does other such accommodations
- 5 - Limits on home occupations - an important example of the lifeblood of this county; no vibration, dust heat, etc., shall be produced - that pretty much takes care of many of these
- 6 - 60 decibels of noise pollutions; this would seem to eliminate motorcycles, lawn equipment, chainsaws etc. which are permitted by law
- 7 - Outdoor storage of materials and equipment; above ground storage of fuels; machinery and vehicle parking
- 8 - Penalties: \$500
- 7 - Board of Adjustment - While legal, tremendous power is placed in the hands of five non-elected individuals, two of whom may concurrently sit of the planning board, thus increasing their personal influence.

And the list goes on. The nitpicking elitism of these regulations is unacceptable in an independent and rural setting such as we have enjoyed up until this time. Enough, already.

FARM AND RANCH BOARD PROPOSAL FOR COUNTY WIDE ZONING

ISSUES AND PROBLEMS:

- Agriculture is valued for its green fields, new birth of spring, planting and harvesting activities, hunting opportunities, recreation possibilities, romantic pace of life, and open space with open views. Those maintaining this aura of open space should be rewarded not penalized. If responsible planning is everyone's problem, then everyone needs to be VESTED in the solution. This zoning effort needs to REWARD the source, not force its being with regulations. No one segment of this valley's population should bare the brunt of zoning with devalued property for the increased value of someone else's property without just compensation
- Current zoning proposals do not provide adequate compensation to landowners for loss of development rights on their property. This problem must be mitigated if zoning is to be accepted in Ravalli County.
- Farm and ranch families must to be able to extract value from their property by selling a portion of their property when needed to meet business and family needs. However, most farmers, ranchers and the general public indicate a desire to preserve working lands and open space. Any zoning regulation must allow and encourage preservation of farmland and open space while allowing landowner to extract value from their land when needed.
- Irrigated farmland is critical to maintaining viable agricultural enterprise in the Bitterroot Valley. However, irrigated farmland is also the location of most development. Zoning must recognize the higher value of irrigated farmland relative to areas in the Valley that have lesser potential for development and agriculture, specifically, non-irrigated lands and land lying within a designated floodplain.
- Much of the land in Ravalli County was subdivided into 10-acre parcels (orchard tracts) during the early 1900's. Approximately 1500 of these tracts appear on County plat maps. Often what appear to be large tracts of land are, in reality, a group of 10 acre parcels being farmed and managed as a single parcel. Any zoning ordinance must recognize their existence and mitigate the problems associated with development of these tracts.
- The Open Lands Program is jeopardized because the appraisal process will be adversely affected by zoning that is too low in density. Lower density reduces the appraised value of land, thereby acting as a disincentive to a landowner considering placing a conservation easement on their property.

- The Ravalli County Farm and Ranch Board proposes that these issues be addressed through offering strong incentives for conserving productive farm and ranch land, providing incentives for higher density development in cases where this will serve to preserve farm and ranch land and by creating a market and system for purchase of development rights. We believe that purchase of development rights will be negotiated directly between the landowner and the purchasing organization and hence would result in a mutually agreeable price. The feasibility of creating a market and system for transfer of development rights should be investigated. Any market created for transfer of development rights must ensure that these rights have sufficient value to adequately compensate landowners.

DEFINITIONS:

Conservation Development: Conservation development is a zoning tool by which development on a large parcel (or several adjacent parcels) is concentrated in a small portion of the total area, while the remaining portion is kept intact for use as agricultural or open lands. A conservation development should require that at least 80% of parcel remain in agriculture or undeveloped open lands. The overall density of a conservation development typically does not change from that in the underlying zoning unless bonus incentives are awarded to encourage certain types or location of development. Once the available density on the overall parcel has been utilized in creating the smaller lots, the remaining parcel cannot be re-subdivided again to create additional lots.

Development Lot: Any building lot that will be utilize as part of a conservation development. Each development lot is equivalent to ^{one} development right

Purchase of Development Rights: Purchase of development rights from a landowner by any public or private entity for the purpose permanently removing them from the market and from any future use.

Transfer of Development Rights: The sale of development rights by a landowner under a more or less free market system. Any development density greater than the base zoning density would require the purchase of development rights on the open market for all lots in excess of the base zoning density.

Lot Size: Lot size is considered nominal, allowing a $\pm 10\%$ from the stated lot size. Thus the actual size of a "40 acre" parcel could be between 36 and 44 acres.

PROPOSED FRAMEWORK FOR ZONING

Irrigated Farmland

All irrigated farmland lying outside of existing incorporated and unincorporated town sites should be zoned one residential unit for each 10 acres, the same density as existing orchard tracts. One bonus development lot should be awarded for every 4, 10 acre parcels if conservation development is used. Thus, for a 40 acre tract, the owner would be allowed to develop 4, 10 acre lots but, if conservation development is used, the owner would be entitled to 5 development lots. In addition, one residential structure could be constructed on the undeveloped portion of the tract if one is not already present. Any land having a valid water right should be considered irrigated farmland.

Non-Irrigated and Floodplain Land

All non-irrigated land and land located within a designated floodplain should be zoned one unit for each 40 acres.

Conservation Development

The portion designated for development lots within a conservation development can be subdivided in any manner consistent with applicable legal requirement for sewage disposal, water supply, and subdivision development. However, the total acreage subdivided as part of a conservation development should not be more than 20% of the total acreage in a given parcel. Development lots lying within an area designated for industrial use may be sold for any approved industrial use. Development lots lying outside of an area zoned for industrial use should not be sold or utilized for industrial purposes. However, home based businesses use should be allowed. The maximum number of development lots within a single conservation development should not be greater than 10 to eliminate creation of isolated small town sites throughout the Valley. Higher density development within the area selected for conservation development may be allowed if engineered water supply and waste disposal facilities are included in design of the subdivision and all other legal requirements are addressed. Higher density within a conservation development should also be subject to approval by the Board of Adjustments.

Approval of Conservation Developments

The County should develop an expedited subdivision process for conservation developments and should use the Board of Adjustments to provide landowners with the possibly of greater flexibility in developing their property. The expedited review should be applicable to all conservation developments consisting of 10 or fewer development lots. Existing County Subdivision regulations should apply for proposed conservation developments greater than 10 residential units. Expedited review should include County approval of the location of conservation development lots.

Sale of Development Rights

Landowners may elect to sell all or a portion of his development rights to any private or public organization created to purchase development rights for the purpose of removing them from the market. Once sold, a development right is permanently retired and eliminated from the marketplace. The value of a development right should be determined through direct negotiation between the landowner and the purchasing organization.

Conservation Easement Takedown

In the case of a parcel being appraised for the Open Lands Program, the underlying zoning should be 1 unit for 10 acres, plus bonus development lots for all irrigated farmland. The underlying zoning for dry land and land located within a designated floodplain should be 1 unit for 40 acres. This should be the basis for calculating the takedown in the appraisal.

Taxation

All agricultural land zoned under this proposal should continue to be taxed as agricultural land as defined by the current tax code. Development lots should be taxed as residential lots only after they have been sold or construction has been initiated.

Other uses of Agricultural Land

Any zoning regulation should recognize and facilitate use of agricultural land for any purpose that will add to the economic viability of farming and ranching so long as these uses are consistent with existing laws and directly related to agricultural production or production and sale of value added agricultural products. These uses should be allowed so long as they do not constitute a significant change in overall agricultural land use. Any proposed commercial enterprise on agricultural land not directly related to agricultural production or uses which would result in a significant change in overall land use should comply with existing laws governing use of land for commercial purposes

Bonus lots for Large Tracts

For irrigated tracts exceeding 40 acres, a bonus lot should be allowed for each additional full 40 acres contained within the parcel, including the first 40 acre tract. For example, under conservation development, a 120 acre tract of irrigated farmland would be entitled to 5 development rights for each 40 acres. Three additional development rights would be allowed for the remaining, undeveloped acreage for a total of 18 rights for the 120 acre tract. For dry land and land located within a defined floodplain, an additional development lot should be allowed for acreage exceeding 40 acres. For example, a 120 acre tract would be entitled to a total of 6 development rights.

EXAMPLES:

Example 1:

Under this proposal, the owner of a 40-acre parcel of irrigated farmland will have the following options:

- Sell up to 4 lots of any size after subdivision of the 40. In the case of land already subdivided into Orchard Tracts, the landowner would normally be restricted to selling the already subdivided 10 acre tracts.
- Select conservation development thus qualifying for expedited review. Sell or subdivide 20 % of his land for residential development. Only one residential structure, or development right, will be allowed on the remaining 34 acres. Under this scenario, the landowner will have the right to develop 6 acres, utilizing his 5 development right, in any manner consistent with existing laws and could construct or replace one residential structure on the remaining 34 acres or sell that development right.
- Sell all or a portion of their development rights to a private or government entity interested in permanently retiring these rights. The landowner would have a maximum of 6 total rights to sell; four because of base density zoning, one bonus for selecting conservation development and one for the undeveloped portion of the property.

Example 2:

The owner of dry land or land located within a designated floodplain would have the following options:

- Construct one residential structure on each 40 acre parcel.
- Sell one development right for a 40 acre tract to a public or private organization that will permanently retire the right
- Sell or utilize 2 development rights for each 40 acres if the total acreage equal or exceeds 80 acres.